

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF
PATENT APPEALS AND INTERFERENCES**

In Re Application of:)	Docket No.: 821922-1010
)	
Sheyda Mostowfi)	Group Art Unit: 3696
)	
Serial No.: 10/715,014)	Examiner: Graham, Clement B.
)	
Filed: November 17, 2003)	Confirmation No.: 3275
)	
For: Debt Collecting and Financing Method)	

REMARKS IN SUPPORT OF PRE-APPEAL BRIEF CONFERENCE

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant submits the following remarks in support of its Request for a Pre-Appeal Brief Conference.

REMARKS

This is an appeal from the Final Office Action mailed April 29, 2008, (Paper No. 20080415), as confirmed by, but not clarified by, the Advisory Action mailed October 24, 2008 (Paper No. 20081019). Claims 1 and 3-17 are pending.

Applicant submits there are clear errors in the final rejection of the pending remaining claims and the basis of the rejection is insufficient to provide a prima facie rejection of the claims.

The Final Office Action rejects the claims 1 and 3-17 on a single ground. It asserts that the claims are obvious over "Youngblood, Jr. (U.S. Patent Pub. 2003/0149647) and Martin (U.S. Patent 6, 30,547 [sic])." For example, it argues that Youngblood, Jr. discloses the preamble and subpart (a) of claim 1. It admits, however, that Youngblood, Jr. does not disclose subparts (b), (c), (d) and (e) of claim 1. (See, p. 2, Section 3, paragraphs 2 and 3). It then attempts to cure the deficiencies in Youngblood, Jr. with the following paragraph found at the bottom of page 2 beginning with the sentence: "However [sic] discloses exchange system to review...". This paragraph cites to paragraph numbers in an unnamed reference. The Martin reference identified in the first paragraph of Section 3 is an issued patent that contains columns and lines. Martin contains no paragraph numbers at all. Therefore, Applicant is unable to determine which teachings the rejection relies on. Finally, the last sentence of the paragraph (see top of page 3) refers to what appears to be a third reference – namely Hefner – which is completely unidentified ("Therefore it would have been obvious...to modify the teachings of Youngblood JR. to include [various features] taught by **Hefner** in order to finance debt" (emphasis added.)). No reference is presented in the name of Hefner in any List of References Cited (Form PTO-892) in the IFW for this application.

Applicant submitted a Second Response in response to the Final Office Action on September 29, 2008 in which Applicant submitted that this incomplete rejection denies Applicant full opportunity to address and refute the rejection of Applicant's claims. In other words, without a clear identification (by column and line number) of how the Martin reference allegedly teaches the claimed features, it is not possible to fully response to an Office Action rejection, given that the true basis for the rejection is not ascertainable. Alternatively, if the Office Action intended to rely on a reference other than Martin in the rejection, then that reference – and the specific teachings in it – should be clearly indicated.

An Advisory Action was mailed October 24, 2008 (Paper No. 20081019) sustaining the rejection, and merely commenting:

"II. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 11. does NOT place the application in condition for allowance because: Applicant's

arguments has [sic] been fully considered but they are not persuasive see prior office action..”

The Advisory Action makes no attempt to address or explain the above noted defect in the rejection, or to support the rejection, suggesting that neither the Examiner, nor the Primary Examiner who signed on behalf of the Examiner, bothered to review the Final Office Action.

Moreover, the identified combination of Youngblood, Jr. and Martin does not render the claims *prima facie* obvious. Applicant respectfully submits that claim 1 is allowable for at least the reason that the proposed combination of Youngblood, Jr. in view of Martin does not disclose, teach, or suggest at least the feature of subpart (a) of “entering accounting data regarding accounts payable to the creditor and payments to the creditor into the system”. The Final Office Action (p. 2) contends that this feature is taught by Youngblood, Jr. at paras. 0021-0022 and claim 21. These citations do not support this contention. The entire text of paras. 0021-0022 is reproduced below:

[0021] Client computer 14, such as personal computers (PCs), workstations, laptop computers, personal digital assistants (PDAs), wireless phones and/or the like, may be used by users, such as lawyers, paralegals, representatives of mortgagors and lenders, providers of services related to management of debt default information, and/or the like, to access debt default management system 34.

[0022] Email gateway 20 may be used to process emails to and from client computers 14. Computer 26 may be used to access debt default management system 34 of host server 18. Computer 26 may also be used to control scanner 24, printer 28 and barcode reader 30. Voicemail system 32 may be used to store voicemails.

The general statement above in Youngblood, Jr. that debt default management system 34 can be accessed through a client computer 14 does not disclose or teach the specific feature recited claim 1 of “entering accounting data regarding accounts payable to the creditor and payments to the creditor into the system”.

Moreover, cited claim 21 in Youngblood, Jr. discloses “querying a multiple lenders database for lender records with loan numbers matching said defaulted loans; retrieving lender specific information on a plurality of lenders from said matching lender records; and updating said plurality of records of said debt default database with respective ones of said retrieved lender specific information”. Youngblood’s “lender records with loan numbers” and “lender specific information” is not a disclosure or teaching of the specific feature recited in claim 1 of “entering accounting data regarding accounts payable to the creditor and payments to the creditor into the system”.

The Final Office Action (p. 2, last paragraph) further alleges that a second reference discloses “the credit rating agency can review the payment history of the loans used to back a particular mortgage-backed security.” As stated in the Second Response, Applicant can find no mention whatsoever of “mortgage backed security” in Martin. Nor can Applicant find any reference to “payment history” in Martin. In any case, these terms are not recited in claim 1 and, even if disclosed in Martin, they would not render claim 1 obvious. Claim 1 instead recites “accounts payable to the creditor.” Applicant can find no mention of this term in claim 1 in Martin. The Advisory Action completely ignores these points.

Applicant further respectfully submits that independent claim 13 is allowable for the reason that the proposed combination of Youngblood, Jr. in view of Martin does not disclose, teach, or suggest at least the feature of “inspecting via a data processing system at least a part of accounting data regarding the payable accounts, the accounting data comprising data relating to all accounts payable to the banking customer and having been entered by the banking customer into the system”, recited therein. The Final Office Action (p. 4) contends that this feature is taught by Youngblood, Jr. at paras. 0021-0022 and claim 21.

The general statement in paras. 0021-0022 (quoted above) that debt default management system 34 can be accessed through a client computer 14 does not disclose or teach the specific feature recited in claim 13, subpart (a), for example, “inspecting...payable accounts”, much less “data relating to all accounts payable to the banking customer”.

Claim 21 in Youngblood, Jr. discloses “querying a multiple lenders database for lender records with loan numbers matching said defaulted loans; retrieving lender specific information on a plurality of lenders from said matching lender records; and updating said plurality of records of said debt default database with respective ones of said retrieved lender specific information”. Youngblood’s “lender records with loan numbers” and “lender specific information” is not a disclosure or teaching of “payable accounts”, much less “data relating to all accounts payable to the banking customer”, as recited in claim 13.

The Final Office Action (p. 2) further alleges that a second reference discloses “the credit rating agency can review the payment history of the loans used to back a particular mortgage-backed security.” As stated in the Second Response, Applicant can find no mention whatsoever of “mortgage backed security” or to “payment history” in Martin. In any case, these terms are not recited in claim 13, and even if disclosed in Martin they would not render claim 13 obvious. Claim 13 instead recites “accounts payable.” Applicant can find no mention of this term in claim 13 in Martin. Again the Advisory Action ignores these points.

Applicant further respectfully submits that claim 15 is allowable for the reason that the proposed combination of Youngblood, Jr. in view of Martin does not disclose, teach, or suggest at least the feature of “entering a criterion which, upon fulfillment thereof, initiates an action; -

repetitively checking a debt for fulfillment of the criterion; and - initiating the action upon fulfillment of the criterion". The Final Office Action (p. 5) contends that this feature is taught by Martin at paras.0151, 0230, 0266, and 0323. Since Martin does not include paragraph numbers, Applicant is unable to respond specifically to this improper rejection. The Final Office Action states at p. 5, fourth paragraph that:

"However [sic] discloses exchange system to review the payment history and risk-return information in order to rate a particular security. For example, the credit rating agency can review the payment history of the loans used to back a particular mortgage-backed security, to determine whether the loans are likely to be prepaid or go into default.

Applicant assumes for the sake of argument only that this characterization is accurate, and further assumes that the Final Office Action alleges that payment history corresponds to the claimed "criterion". Even if payment history is considered to be a criterion, using this criterion to determine the likelihood of prepayment or default does not disclose or teach "initiating an action" upon fulfilling the criterion, as recited by in claim 15.

Accordingly, the proposed combination of Youngblood, Jr. in view of Martin does not teach at least the above-described features recited in independent claims 1, 13 and 15. Therefore, a *prima facie* case establishing an obviousness rejection has not been made, and the rejection should be withdrawn as to these claims.

Since independent claims 1, 13, and 15 are allowable, Applicant respectfully submits that claims 3-12, 14 and 16-17 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicant respectfully requests that the rejection of claims 3-12, 14 and 16-17 be withdrawn.

CONCLUSION

Based upon the foregoing discussion, Applicant respectfully requests that the final rejection of Claims 1 and 3-17 be overruled and withdrawn by the Board and that the application be allowed to issue as a patent with said claims. Any additional fee that may be due or required is authorized to be charged to our Deposit Account No. 20-0778.

Respectfully submitted,



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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

821922-1010

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on 29 October 2008Signature Virginia KeenanTyped or printed name Virginia Keenan

Application Number

10/715,014

Filed

November 17, 2003

First Named Inventor

Sheyda Mostowfi

Art Unit

3696

Examiner

Graham, Clement B.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. 29526
Registration number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

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29 October 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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